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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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APR 20 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of
Streamlining the Commission's Antenna
Structure Clearance Procedure

and

Revision of Part 17 of the Commission's
Rules Concerning Construction, Marking
and Lighting of Antenna Structures

)
)
)
)
) WT Docket No. 95-5
)
)
)

REPLY COMMENTS OF NYNEX
MOBILE COMMUNICATIONS COMPANY

NYNEX Mobile Communications Company ("NMCC") hereby submits these
Reply Comments in response to comments that were filed in response to the
Commission's January 20, 1995 Notice of Proposed Rulemaking ("Notice") in the
proceeding captioned above.

I. INTRODUCTION AND SUMMARY

In the Notice, the Commission proposes to revise its rules governing the
construction, marking and lighting of antenna structures¹ and to streamline its antenna
structure clearance process.² Specifically, the Commission proposes to implement a
uniform registration process whereby the owner of the antenna structure, rather than each
non-owner licensee or permittee on the tower, is primarily responsible for the operation

¹ Notice at ¶ 4.

² Id. at ¶ 7, 21.

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and maintenance of the structure. In these Reply Comments, NMCC generally agrees with the majority of commenters that support the FCC's goal to ensure that antenna tower structures do not present a hazard to air traffic safety and its proposal to move toward a unified registration process for all communications towers.³ We believe, as do these parties, that the Commission's proposal will serve the public interest, as it provides an added measure of safety for our air traffic systems. We also support the majority view that primary responsibility for registering and maintaining towers, including ensuring proper lighting and marking, should be placed on the tower owner or its designee, instead of on mere tenants.⁴ The comments persuasively argue that the Commission's public safety objectives are best served when tower owners, the parties with access to and ability to control architectural plans, are deemed responsible for compliance with these important safety obligations.

NMCC also believes that the Commission's public safety objectives must compliment its goal to promote the efficient provision of service to the public. To this end, we support a unified registration requirement for towers subject to Federal Aviation Administration ("FAA") approval. The Commission's role should be to register FAA-approved towers. We believe, however, that the decision on whether non-safety impacting towers should be registered is best left to a future date, after the Commission has had an opportunity to analyze how the process works for towers located in critical

³ See, e.g., Comments filed by APC, Bell Atlantic Mobile and CTIA.

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flight paths. In this way, both the public safety goal of ensuring safe airways, and the public interest goal of rapid deployment of wireless services will be accomplished.

Indeed, we believe that the Commission should take additional steps to ensure that its tower registration rules do not hamper the deployment of wireless services. For example, in order to eliminate unnecessary filing burdens, tower registration should be limited to only those towers that require FAA approval. To the extent that the FAA makes a determination that a tower must be marked and lit, that tower should be registered with the Commission and documentation maintained in the Commission's central database. NMCC agrees with commenters, such as PCIA, APC and Sprint, who believe a registration requirement that includes all tower structures, is unnecessarily burdensome at this time.⁵ As APC correctly points out, this is particularly troublesome for PCS providers who are attempting to build out large systems in a short period of time.⁶ To require that all towers be registered with the Commission, regardless of height or location, would place an unnecessary strain on applicants who would be required to provide the data, and on the Commission who would be responsible for maintaining it.

If the FCC, nonetheless, believes that the registration of all towers is warranted, it should consider Sprint's proposal to phase-in such a requirement in over time. That is, the FCC should require applicants to register those towers needing FAA approval first, and sometime in the future expand the requirement to all remaining towers.⁷

⁵ See, e.g., PCIA at 4, APC at 3 and Sprint at 4. See also, Pac Bell at 3, Page Net at 17-18, Motorola at 9, BAM at 3, SWB at 7, AMTA at 7, IC&E at 3, and UTC at 9.

⁶ APC at 3.

⁷ Sprint at 4.

II. THE FCC SHOULD ISSUE REGISTRATION NUMBERS TO FAA-APPROVED TOWERS PRIOR TO CONSTRUCTION

In its comments, GTE proposed that the Commission's tower registration rules should be modified to require applicants to file identical documentation with the FCC and FAA.⁸ NYNEX supports the GTE proposal for several reasons. First, instead of requiring applicants to file different documentation for each agency and to engage in sequential approval proceedings, GTE's proposal would require applicants to prepare only one set of documents, thus, eliminating duplicative paperwork and ensuring that consistent information is provided to both agencies. Moreover, since it avoids a sequential two-step review and approval process involving two different agencies, the GTE proposal promises to eliminate potential cell site construction delays. In addition, since this approach continues to rely on the FAA in its role as the agency chiefly responsible for policing air safety requirements, GTE's proposed alternative methodology would ensure that the public interest in securing air safety is satisfied.

III. THE COMMENTS SHOW THAT THE FCC SHOULD MAKE AN ON-LINE DATABASE AVAILABLE

NYNEX believes, as do many commenters, that the use of an on-line database provides a simple, efficient and effective mechanism for providing access to critical air safety information.⁹ Moreover, utilizing an on-line database is more efficient and simpler

⁸ Under the approach proposed by GTE, antenna structures would be subject to FAA review prior to construction. The FAA would review the data to determine whether the tower complies with its requirements. Applicants would use documentation identical to that filed with the FAA for purposes of registration with the FCC. The FCC would permit its licensees to construct FAA-approved structures without awaiting a second approval from the Commission. GTE at 2-6.

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to administer than a manual process that is likely to require that large volumes of files be maintained.¹⁰

Many commenters argue that the parties who wish to review information contained in the database should be charged a fee for their access to the database.¹¹ We agree. This approach, rather than charging a registration fee to the tower owners or their delegated parties who simply supply the required information, is more equitable in that it would recover the cost of maintaining the system from parties who benefit from the use of the data.

IV. TOWER REGISTRANTS SHOULD BE GIVEN THE OPTION TO FILE REGISTRATION DOCUMENTS ELECTRONICALLY

Southwestern Bell argues that the Commission should continue to permit parties to file registration documentation manually, while offering parties the option of filing registration documents electronically.¹² We support this approach. Electronic filings should be encouraged by the FCC as a way to reduce paperwork and processing time. Nonetheless, the Commission's permissible filing methodologies should accommodate the varying nature of tower owners. Some tower owners will have ready access to electronic filing capabilities. However, for others -- many of whom may be small or new businesses -- requiring electronic filing would impose an undue financial burden. Thus, the use of manual filings should continue to be permitted by the FCC.

¹⁰ *Id.*

¹¹ *See, e.g.*, Comments filed by SWB at 5-6.

¹² SWB at 6.

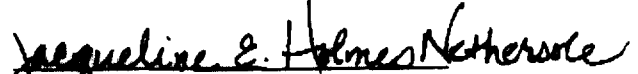
V. CONCLUSION

The Commission should adopt its tower registration proposals, modified as
NYNEX suggests herein.

Respectfully submitted,

NYNEX Mobile
Communications Company

By:



Edward R. Wholl

Jacqueline E. Holmes Nethersole

1111 Westchester Avenue
White Plains, NY 10604
914/644-6830

Dated: April 20, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing REPLY COMMENTS OF
NYNEX MOBILE COMMUNICATIONS COMPANY, was served by first class United
States Mail, postage prepaid, on each of the parties indicated on the attached service list,
this 20th day of April, 1995.


JAMENE JOHNSON

Kathryn A. Zachem
Kelley A. Baione
Wilkinson, Barker, Knauer & Quinn
1735 New York Avenue, N.W.
Washington, D.C. 20006
FOR: AIRTOUCH COMMUNICATIONS, INC.
US WEST NEWVECTOR GROUP, INC.

Jonathan D. Blake
Kurt A. Wimmer
Nancy Dickinson
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Post Office Box 7566
Washington, D.C. 20044
FOR: AMERICAN PERSONAL COMMUNICATIONS

David A. Gross
Kathleen Q. Abernathy
AIRTOUCH COMMUNICATIONS, INC.
1818 N Street, N.W., Suite 800
Washington, D.C. 20036

Wayne V. Black
John Reardon
Keller and Heckman
1001 G Street
Suite 500 West
Washington, D.C. 20001
FOR: THE AMERICAN PETROLEUM INSTITUTE

Donald M. Mukai
U S WEST NEWVECTOR GROUP, INC.
3350 - 161st Avenue, S.E.
Bellevue
Washington, D.C. 20036

Mark C. Rosenblum
Kathleen F. Carroll
Ernest A. Gleit
AT&T Corp.
295 North Maple Avenue
Room 3261B3
Basking Ridge, NJ 07920

Elizabeth R. Sachs, Esq.
Lukas, McGowan, Nace & Gutierrez, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036

Cathleen A. Massey
Vice-President - External Affairs
McCaw Cellular Communications, Inc.
1150 Connecticut Ave., N.W.
Washington, D.C. 20036
FOR: AT&T Corp.

Alan R. Shark, President
AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.
1150 18th Street, N.W., Suite 250
Washington, D.C. 20036

John T. Scott, III
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
FOR: BELL ATLANTIC MOBILE SYSTEMS, INC.

Dvora Wolff Rabino
General Attorney, Law & Regulation
Robert Niles, Director of Engineering, Owned Television
Stations
Kenneth J. Brown, Manager, Allocations and Licensing
Broadcast Operations & Engineering
Capital Cities/ABC, Inc.
77 West 66th Street
New York, New York 10023

John R. Somers
Flash Technology Corporation of America
P.O. Box 1549
Brentwood, TN 37024

Howard F. Jaeckel
Andrew J. Siegel
CBS Inc.
51 West 52 Street
New York, NY 10019

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Michael F. Altschul, Vice President and General Counsel
Randall S. Coleman, Vice President, Regulatory Policy &
Law
Andrea D. Williams, Staff Counsel
Cellular Telecommunications Industry Association
1250 Connecticut Avenue, N.W., Suite 200
Washington, D.C. 20036

Donald J. Evans
Nancy L. Killien
McFadden, Evans & Sill
1627 Eye St., N.W., Suite 810
Washington, D.C. 20006
FOR: GTE Service Corporation

Robert H. Schwaninger, Jr.
Brown and Schwaninger
1835 K Street, N.W., Suite 650
Washington, D.C. 20006
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FRYER'S SITE GUIDE

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036
FOR: INDUSTRIAL COMMUNICATIONS &
ELECTRONICS, INC.

Cheri R. Kiser
Anthony E. Varona
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND
POPEO, P.C.
701 Pennsylvania Ave., N.W., Suite 900
Washington, D.C. 20004
FOR: EMI COMMUNICATIONS CORP.

A.B. Cruz III
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, D.C. 20005
FOR: KELLEY COMMUNICATIONS, INC.

Lawrence M. Miller
Schwartz, Woods & Miller
1350 Connecticut Avenue, N.W.
Suite 300
Washington, D.C. 20036
FOR: MICRO TV, INC.

Edward W. Hummers, Jr.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Rosslyn, VA 22209
FOR: NATIONWIDE COMMUNICATIONS INC.

Minnie M. Adams
Vice President - Corporate Services
MITCHELL ENERGY & DEVELOPMENT CORP.
P.O. Box 4000
The Woodlands, TX 77387-4000

Michael R. Carper
Vice President & General Counsel
OneComm Corporation, N.A.
4643 South Ulster Street
Suite 500
Denver, CO 80237

Thomas Gutierrez
J. Justin McClure
Lukas, McGowan, Nace &
Gutierrez, Chartered
1111 Nineteenth Street, N.W., Suite 1200
Washington, D.C. 20036
FOR: MOBILE TELECOMMUNICATION TECHNOLOGIES
CORPORATION

James P. Tuthill
Betsy Stover Granger
140 Montgomery Street, Rm. 1525
San Francisco, California 94105
FOR: PACIFIC BELL, NEVADA BELL, PACIFIC BELL
MOBILE SERVICES

R. Michael Senkowski
Katherine M. Holden
Stephen J. Rosen
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
FOR: MOTOROLA

James L. Wurtz
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
FOR: PACIFIC BELL, NEVADA BELL,
PACIFIC BELL MOBILE SERVICES

Henry L. Baumann, Executive Vice President
and General Counsel
Barry D. Umansky, Deputy General Counsel
Kelly T. Williams, Director of Engineering, NAB S&T
David E. Wilson, Staff Engineer, NAB S&T
Robin L. Miller, NAB Legal Intern
NATIONAL ASSOCIATION OF BROADCASTERS
1771 N Street, NW
Washington, DC 20036

Judith St. Ledger-Tory
Marnie K. Sarver
Paul G. Madison
Reed Smith Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036
FOR: PAGING NETWORK, INC.

David E. Weisman
Cary S. Tepper
Meyer, Faller, Weisman & Rosenberg, P.C.
4400 Jenifer Street, N.W., Suite 380
Washington, D.C. 20554
FOR: PERSONAL COMMUNICATIONS
INDUSTRY ASSOC.

Carol W. Beaver
Chief, Aeronautical Charting Division
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Coast and Geodetic Survey
Silver Spring, Maryland 20910

Neil M. Smith
SMITH AND POWSTENKO
1233 Twentieth Street, NW, Suite 502
Washington, D.C. 20036

Jeffrey L. Sheldon
General Counsel
UTC
1140 Connecticut Ave., N.W.
Suite 1140
Washington, D.C. 20036

Wayne Watts
Vice President and General Attorney
Bruce E. Beard
Attorney
17330 Preston Road
Suite 100A
Dallas, TX 75252
FOR: SOUTHWESTERN BELL

John A. Prendergast
Richard D. Rubino
Blooston, Mordkofsky, Jackson
& Dickens
2120 L Street, N.W., Suite 300
Washington, D.C. 20037
FOR: VERNON TELEPHONE COOPERATIVE, INC.

Jay C. Keithley
Leon M. Kestenbaum
Nancy R. McCabe
1850 M Street, N.W., Suite 1100
Washington, D.C. 20036
FOR: SPRINT CORPORATION

Dawn G. Alexander
Sinderbrand & Alexander
888 Sixteenth Street, N.W.
Fifth Floor
Washington, DC 20006-4103
FOR: THE WIRELESS CABLE ASSOCIATION
INTERNATIONAL, INC.

Kevin C. Gallagher
SPRINT CORPORATION
8725 Higgins Road
Chicago, IL 60631

John F.X. Browne, P.E.
President
The Association of Federal Communications
Consulting Engineers
Washington, D.C. 20005

Glenn S. Rabin
Federal Regulatory Counsel
ALLTEL MOBILE COMMUNICATIONS, INC.
655 15th Street, NW
Washington, D.C. 20005

Mark E. Crosby
President & Chief Executive Officer
Frederick J. Day, Esq.
Executive Director - Government Relations
INDUSTRIAL TELECOMMUNICATIONS
ASSOCIATION, INC.
1110 North Glebe Road, Suite 500
Arlington, VA 22201

Donald G. Everist, President
Cohen, Dippell & Everist
1300 L Street, NW, Suite 1100
Washington, D.C. 20005

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NYNEX Mobile
Communications Company

By: /s/ Jacqueline E. Holmes Nethersole
Edward R. Wholl
Jacqueline E. Holmes Nethersole

1111 Westchester Avenue
White Plains, NY 10604
914/644-6830

Dated: April 20, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **REPLY COMMENTS OF**
NYNEX MOBILE COMMUNICATIONS COMPANY, was served by first class United
States Mail, postage prepaid, on each of the parties indicated on the attached service list,
this 20th day of April, 1995.


JAMENE JOHNSON

Kathryn A. Zachem
Kelley A. Baione
Wilkinson, Barker, Knauer & Quinn
1735 New York Avenue, N.W.
Washington, D.C. 20006
FOR: AIRTOUCH COMMUNICATIONS, INC.
US WEST NEWVECTOR GROUP, INC.

Jonathan D. Blake
Kurt A. Wimmer
Nancy Dickinson
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Post Office Box 7566
Washington, D.C. 20044
FOR: AMERICAN PERSONAL COMMUNICATIONS

David A. Gross
Kathleen Q. Abernathy
AIRTOUCH COMMUNICATIONS, INC.
1818 N Street, N.W., Suite 800
Washington, D.C. 20036

Wayne V. Black
John Reardon
Keller and Heckman
1001 G Street
Suite 500 West
Washington, D.C. 20001
FOR: THE AMERICAN PETROLEUM INSTITUTE

Donald M. Mukai
U S WEST NEWVECTOR GROUP, INC.
3350 - 161st Avenue, S.E.
Bellevue
Washington, D.C. 20036

Mark C. Rosenblum
Kathleen F. Carroll
Ernest A. Gleit
AT&T Corp.
295 North Maple Avenue
Room 3261B3
Basking Ridge, NJ 07920

Elizabeth R. Sachs, Esq.
Lukas, McGowan, Nace & Gutierrez, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036

Cathleen A. Massey
Vice-President - External Affairs
McCaw Cellular Communications, Inc.
1150 Connecticut Ave., N.W.
Washington, D.C. 20036
FOR: AT&T Corp.

Alan R. Shark, President
AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.
1150 18th Street, N.W., Suite 250
Washington, D.C. 20036

John T. Scott, III
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
FOR: BELL ATLANTIC MOBILE SYSTEMS, INC.

Dvora Wolff Rabino
General Attorney, Law & Regulation
Robert Niles, Director of Engineering, Owned Television
Stations
Kenneth J. Brown, Manager, Allocations and Licensing
Broadcast Operations & Engineering
Capital Cities/ABC, Inc.
77 West 66th Street
New York, New York 10023

John R. Somers
Flash Technology Corporation of America
P.O. Box 1549
Brentwood, TN 37024

Howard F. Jaeckel
Andrew J. Siegel
CBS Inc.
51 West 52 Street
New York, NY 10019

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Michael F. Altschul, Vice President and General Counsel
Randall S. Coleman, Vice President, Regulatory Policy &
Law
Andrea D. Williams, Staff Counsel
Cellular Telecommunications Industry Association
1250 Connecticut Avenue, N.W., Suite 200
Washington, D.C. 20036

Donald J. Evans
Nancy L. Killien
McFadden, Evans & Sill
1627 Eye St., N.W., Suite 810
Washington, D.C. 20006
FOR: GTE Service Corporation

Robert H. Schwaninger, Jr.
Brown and Schwaninger
1835 K Street, N.W., Suite 650
Washington, D.C. 20006
FOR: DEAN BROTHERS PUBLISHING D/B/A
FRYER'S SITE GUIDE

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036
FOR: INDUSTRIAL COMMUNICATIONS &
ELECTRONICS, INC.

Cheri R. Kiser
Anthony E. Varona
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND
POPEO, P.C.
701 Pennsylvania Ave., N.W., Suite 900
Washington, D.C. 20004
FOR: EMI COMMUNICATIONS CORP.

A.B. Cruz III
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, D.C. 20005
FOR: KELLEY COMMUNICATIONS, INC.

Lawrence M. Miller
Schwartz, Woods & Miller
1350 Connecticut Avenue, N.W.
Suite 300
Washington, D.C. 20036
FOR: MICRO TV, INC.

Edward W. Hummers, Jr.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Rosslyn, VA 22209
FOR: NATIONWIDE COMMUNICATIONS INC.

Minnie M. Adams
Vice President - Corporate Services
MITCHELL ENERGY & DEVELOPMENT CORP.
P.O. Box 4000
The Woodlands, TX 77387-4000

Michael R. Carper
Vice President & General Counsel
OneComm Corporation, N.A.
4643 South Ulster Street
Suite 500
Denver, CO 80237

Thomas Gutierrez
J. Justin McClure
Lukas, McGowan, Nace &
Gutierrez, Chartered
1111 Nineteenth Street, N.W., Suite 1200
Washington, D.C. 20036
FOR: MOBILE TELECOMMUNICATION TECHNOLOGIES
CORPORATION

James P. Tuthill
Betsy Stover Granger
140 Montgomery Street, Rm. 1525
San Francisco, California 94105
FOR: PACIFIC BELL, NEVADA BELL, PACIFIC BELL
MOBILE SERVICES

R. Michael Senkowski
Katherine M. Holden
Stephen J. Rosen
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
FOR: MOTOROLA

James L. Wurtz
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
FOR: PACIFIC BELL, NEVADA BELL,
PACIFIC BELL MOBILE SERVICES

Henry L. Baumann, Executive Vice President
and General Counsel
Barry D. Umansky, Deputy General Counsel
Kelly T. Williams, Director of Engineering, NAB S&T
David E. Wilson, Staff Engineer, NAB S&T
Robin L. Miller, NAB Legal Intern
NATIONAL ASSOCIATION OF BROADCASTERS
1771 N Street, NW
Washington, DC 20036

Judith St. Ledger-Tory
Marnie K. Sarver
Paul G. Madison
Reed Smith Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036
FOR: PAGING NETWORK, INC.

David E. Weisman
Cary S. Pepper
Meyer, Faller, Weisman & Rosenberg, P.C.
4400 Jenifer Street, N.W., Suite 380
Washington, D.C. 20554
FOR: PERSONAL COMMUNICATIONS
INDUSTRY ASSOC.

Carol W. Beaver
Chief, Aeronautical Charting Division
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Coast and Geodetic Survey
Silver Spring, Maryland 20910

Neil M. Smith
SMITH AND POWSTENKO
1233 Twentieth Street, NW, Suite 502
Washington, D.C. 20036

Jeffrey L. Sheldon
General Counsel
UTC
1140 Connecticut Ave., N.W.
Suite 1140
Washington, D.C. 20036

Wayne Watts
Vice President and General Attorney
Bruce E. Beard
Attorney
17330 Preston Road
Suite 100A
Dallas, TX 75252
FOR: SOUTHWESTERN BELL

John A. Prendergast
Richard D. Rubino
Blooston, Mordkofsky, Jackson
& Dickens
2120 L Street, N.W., Suite 300
Washington, D.C. 20037
FOR: VERNON TELEPHONE COOPERATIVE, INC.

Jay C. Keithley
Leon M. Kestenbaum
Nancy R. McCabe
1850 M Street, N.W., Suite 1100
Washington, D.C. 20036
FOR: SPRINT CORPORATION

Dawn G. Alexander
Sinderbrand & Alexander
888 Sixteenth Street, N.W.
Fifth Floor
Washington, DC 20006-4103
FOR: THE WIRELESS CABLE ASSOCIATION
INTERNATIONAL, INC.

Kevin C. Gallagher
SPRINT CORPORATION
8725 Higgins Road
Chicago, IL 60631

John F.X. Browne, P.E.
President
The Association of Federal Communications
Consulting Engineers
Washington, D.C. 20005

Glenn S. Rabin
Federal Regulatory Counsel
ALLTEL MOBILE COMMUNICATIONS, INC.
655 15th Street, NW
Washington, D.C. 20005

Mark E. Crosby
President & Chief Executive Officer
Frederick J. Day, Esq.
Executive Director - Government Relations
INDUSTRIAL TELECOMMUNICATIONS
ASSOCIATION, INC.
1110 North Glebe Road, Suite 500
Arlington, VA 22201

Donald G. Everist, President
Cohen, Dippell & Everist
1300 L Street, NW, Suite 1100
Washington, D.C. 20005